

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2085

2007 SENATE FINANCE AND TAXATION

SB 2085

2007 SENATE STANDING COMMITTEE MINUTES

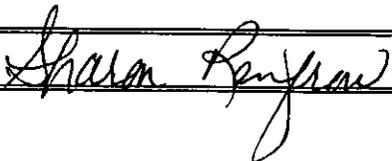
Bill/Resolution No. **SB 2085**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 765

Committee Clerk Signature 

Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SB 2085.

Kevin Schatz on behalf of the Tax Dept. appeared in support with written testimony. (See attached)

Sen. Oehlke: What is the 12 month period? Does it run the calendar year or is it a rolling 12 month period every month when they make a report?

Mr. Schatz: We have not detailed the work period we were going to use at this time, that would be something we would work out with industry but we would use the same 12 month period every year and would not be a rolling period.

Sen. Oehlke: Do fuel dealers report to other agencies in the state as well, and if so, is it a similar report or aren't you sure?

Mr. Schatz: Not sure

Sen. Urlacher: Reporting for different areas at different times, some are monthly, some quarterly, etc.

Mr. Schatz: the requirement in the statute states that they have to report their reconciliation at least once during the 12 month period and it's up to them to determine when they want to

report. We believe that using the data base and the information they report would simplify the entire process.

Sen. Triplett: Is this more work for anyone?

Mr. Schatz: it would actually eliminate a lot of work on behalf of both.

Sen. Cook: they continue to do their physical inventory on a monthly basis but the actual report that determines if there's a tax due because of a loss, that it's only going to be done on a yearly basis, is that correct?

Mr. Schatz: that's correct and we would do that for them.

Sen. Cook: is it common for fuel distributors to recognize a loss over the 1 ½% or do most of them stay within that 1 ½% shrinkage?

Mr. Schatz: most of them do.

Sen. Horne: help me understand here, a loss is taxable, more than ½ of 1% of the loss is taxable, why is that?

Mr. Schatz: could be spilled fuel, excess shrinkage, excess losses, over and above the shrinkage loss, insurance loss, those are taken into consideration.

Sen. Horne: but my question is why is that taxable?

Mr. Schatz: I can't answer that question.

Sen. Oehlke: I believe there would be a tax on that loss because the fuel is some place. They allow for 1 ½% but if there is more than that gone, then maybe it's in the fuel truck someplace, it makes sense.

Sen. Anderson: you mentioned that your going to submit the annual summary to the dealers is that correct? Are you doing that now or is this something new.

Mr. Schatz: that is something that we propose to do.

Dan Rouse: legal counsel to the State Tax Commissioner's office stating we did work with industry prior coming into the session with this bill to get some language that they would find acceptable. Our desire was to simplify the process and this allows us to monitor in a sense to compliance by these activities on a more regular basis.

Sen. Triplett: what groups have you worked with?

Mr. Rouse: Petroleum Marketers

Sen. Tollefson: actually the bill the way I look at it puts some discipline if you want to call it that into the reporting system and its no undo burden is that correct?

ANSWER: yes, it allows us to monitor and if problems arise with clients, collections, what have you, we can be a little timelier in our response back to them.

Mike Rud: ND Petroleum Marketers Association appeared stating we stand in support of the bill.

Sen. Triplett: asked for explanation of the process they would use in communicating with his dealers.

No further testimony. The hearing was closed.

Sen. Tollefson made a motion for DO PASS, seconded by Sen. Horne.

7-0-0, Sen. Anderson will carry the bill.

REPORT OF STANDING COMMITTEE (410)
January 9, 2007 10:55 a.m.

Module No: SR-05-0341
Carrier: Anderson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2085: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (07 YEAS, 00 NAYS, 00 ABSENT AND NOT VOTING). SB 2085 was placed on the Eleventh order on the calendar.

2007 HOUSE FINANCE AND TAXATION

SB 2085

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2085A/B

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 2/21/07

Recorder Job Number: 3521, 3522

Committee Clerk Signature *A. Penrose*

Minutes:

Rep. Belter: We will open the hearing on SB 2085. Clerk will read the title.

Kevin Schatz, Office of State Tax Commissioner: (see attached testimony #1).

Rep. Belter: Thank you. Further testimony in support.

Mike Rud, President, ND Petroleum Marketers Association: Support. We see no real difficulties with implementing this process, and as far as our marketers are concerned.

Rep. Belter: Will this be helpful to you.

Mike Rud: Yes.

Rep. Belter: It won't be extra paperwork.

Mike Rud: No.

Rep. Belter: Thank you. Further testimony in support. Testimony in opposition or neutral.

We will close the hearing.

(Reopened later in the same day.)

Rep. Belter: We will take a look at SB 2085. What are the committee's wishes.

Rep. Brandenburg: I move a Do Pass.

Rep. Owens: Second.

11 YES 0 NO 3 ABSENT

DO PASS

CARRIER: Rep. Owens

Date:
Roll Call Vote #: 2085

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Pass

Motion Made By Rep. Brandenburg Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich	0	
Vice Chairman Drovdal			Rep. Kelsh	✓	
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande	✓		Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	0				

Total (Yes) 11 No 0

Absent _____

Floor Assignment Rep. Owens

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 21, 2007 12:36 p.m.

Module No: HR-36-3600
Carrier: Owens
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2085: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2085 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2085

TESTIMONY BEFORE THE SENATE
FINANCE AND TAXATION COMMITTEE
SB2085
KEVIN SCHATZ
JANUARY 9, 2007

Chairman Urlacher, members of the Committee, my name is Kevin Schatz, I am here on behalf of the Office of State Tax Commissioner to testify with respect to SB2085.

The Tax Commissioner proposes to amend the noted subsections of Section 57-43 of the Century Code as they relate to inventory reporting. To be consistent with the other subsections, this bill proposes to note in subsection 2 of sections 57-43.1-16 and 57-43.2-11 that the inventory is the physical inventory.

This bill also proposes that in subsection 1 of sections 57-43.1-26, 57-43.2-21, and 57-43.3-26 the reference to "regular" basis be changed to "monthly" basis and the reference to "in increments not to exceed a twelve month period" be stricken.

Fuel dealers are currently required to complete an inventory reconciliation at least once in a twelve month period. Some reconcile monthly, some quarterly, some every six months, and some annually. A reconciliation requires the fuel dealer to start with the beginning physical inventory from the first month of the reconciliation period, add all receipts, deduct all disbursements, calculate a book inventory and compare that to the actual physical inventory at the end of the last period to determine if an inventory gain or loss has occurred. There is no tax effect for an inventory gain over the reconciliation period. If a loss occurs in excess of the allowed shrinkage allowance of one-half of one percent (.005) the loss is taxable. A benefit of conducting a reconciliation over an extended period allows the fuel dealer to net the gains and losses because of fluctuations that can occur from month to month, for instance delivery and reporting timing issues.

The intent of this legislative change is to simplify the reporting process by eliminating the requirement that the fuel dealer conduct a periodic reconciliation, this allows for the removal of the reconciliation page from the monthly report. The information to conduct

a reconciliation on a monthly basis is reported on the return. The Tax Commissioner's Office is proposing to generate reports annually, to be provided to each fuel dealer, detailing the monthly reconciliation information submitted on the returns with an annual summary of gains or losses. The report would be generated from database detail of reported information and include amendments made during the period. This procedure would allow the fuel dealers to retain the benefit of offsetting any losses with any gains experienced over that extended period.

SB 2085

2-21-07

#1

TESTIMONY BEFORE THE HOUSE
FINANCE AND TAXATION COMMITTEE
SB2085
KEVIN SCHATZ
FEBRUARY 21, 2007

Chairman Belter, members of the Committee, my name is Kevin Schatz, I am here on behalf of the Office of State Tax Commissioner to testify with respect to SB2085.

The Tax Commissioner proposes to amend the noted subsections of Section 57-43 of the Century Code as they relate to inventory reporting. To be consistent with the other subsections, this bill proposes to note in subsection 2 of sections 57-43.1-16 and 57-43.2-11 that the inventory is the physical inventory.

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Several fuel dealers have contacted our office indicating their concerns about being able to continue the benefit of the gain/loss offset. The procedure the Tax Commissioner proposes adequately addresses that concern.